



BILLING CODE 6345-03-P

## OFFICE OF GOVERNMENT ETHICS

### **Agency Information Collection Activities; Submission for OMB Review; Proposed Collection; Comment Request for a Modified OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report**

**AGENCY:** Office of Government Ethics (OGE).

**ACTION:** Notice of request for agency and public comments.

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**SUMMARY:** After publication of this second round notice, OGE intends to submit a modified OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report to the Office of Management and Budget (OMB) for review and approval of a three-year extension under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

**DATES:** Written comments by the public and the agencies on this proposed extension are invited and must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments on this paperwork notice to the Office of Management and Budget, Attn: Desk Officer for OGE, via fax at 202-395-6974 or email at [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov). (Include reference to “OGE Form 278 paperwork comment” in the subject line of the message).

**FOR FURTHER INFORMATION CONTACT:** Mr. Paul D. Ledvina, Agency Clearance Officer, at the U.S. Office of Government Ethics; telephone: 202-482-9247; TTY: 800-877-8339; FAX: 202-482-9237; E-mail: [paul.ledvina@oge.gov](mailto:paul.ledvina@oge.gov). An electronic copy of the current OGE Form 278 is available in the Forms Library section of OGE's Web site at <http://www.oge.gov>. A copy of the OGE Form 278 containing the proposed modifications may be obtained, without charge, by contacting Mr. Ledvina.

**SUPPLEMENTARY INFORMATION:**

Title: Executive Branch Personnel Public Financial Disclosure Report.

Form Number: OGE Form 278.

OMB Control Number: 3209-0001.

Type of Information Collection: Extension with modifications of a currently approved collection.

Type of Review Request: Regular.

Respondents: Private citizen Presidential nominees to executive branch positions subject to Senate confirmation; other private citizens who are potential (incoming) Federal employees whose positions are designated for public disclosure filing; those who file termination reports from such positions after their Government service ends; and Presidential and Vice-Presidential candidates.

Estimated Annual Number of Respondents: 1,394.

Estimated Time per Response: 3 hours.

Estimated Total Annual Burden: 4,182 hours.

Abstract: The OGE Form 278 collects information from certain officers and high-level employees in the executive branch for conflicts of interest review and public disclosure. The form is also completed by individuals who are nominated by the President for high-level executive branch positions requiring Senate confirmation, new entrants to other public reporting positions in the executive branch, and Presidential and Vice-Presidential candidates. The financial information collected relates to: assets and income; transactions; gifts, reimbursements and travel expenses; liabilities; agreements or arrangements; outside positions; and compensation over \$5,000 paid by a source – all subject to various reporting thresholds and exclusions. The information is collected in accordance with section 102 of the Ethics in Government Act, 5 U.S.C. app. section 102, as amended by the Stop Trading on Congressional Knowledge Act of 2012 (P.L. 112-105) (STOCK Act), and OGE's implementing financial disclosure regulations at 5 CFR part 2634. OGE is proposing to make minor modifications to the paper version of the OGE Form 278 to update the Privacy Act Statement and the legal authorities under which the information is collected. OGE proposes to include in this renewal submission the new OGE Form 278e, an electronic version to be implemented later in 2014, pursuant to the e-filing system mandated under section 11(b) of the STOCK Act. (See Amendments to the STOCK Act P.L. 113-7 (April 15, 2013)). The OGE Form 278e will collect the same information that both the current paper version of the OGE Form 278 collects, as well as the 14 e-filing systems that are currently in use in executive branch agencies. Although the OGE Form 278e will not collect any additional information, the application will produce a streamlined output report format that presents

only the filer's inputs in given categories, and that does not report other categories not selected by the filer.

OGE published a first round notice of its intent to request paperwork clearance for a modified OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report. See 78 FR 55079 (September 9, 2013). OGE received one response to that notice from an executive branch agency ethics official who requested that OGE modify the language of the filer's certification. The current certification requires the filer to certify that statements made on the form and all attached schedules are true, complete, and correct to the best of the filer's knowledge. The agency official commented that the certification should also include a statement that there are no potential conflicts or that conflicts have been identified. This agency submitted the same comment in response to OGE's request for public comments about the proposed renewal under the Paperwork Reduction Act of an unmodified OGE Form 450, the confidential financial disclosure report for employees of the executive branch. The filer's certification on the OGE Form 450 is very similar to the filer's certification on the OGE Form 278. OGE declined to adopt this recommendation for the OGE Form 450 because OGE deemed the existing certification to be appropriate.

OGE also declines to adopt this suggestion with regard to the OGE Form 278. Neither the Ethics in Government Act, 5 U.S.C. app. sections 101-111, nor the financial disclosure regulation, 5 CFR part 2634, requires the filer to certify that he or she has no conflicts of interest. A certification that is made once a year, such as the proposed one, is ineffective. The analysis of whether a filer has conflicts of interest must continue throughout a filer's executive branch employment and is not limited to the date on which

the filer signs a financial disclosure report. No conflicts may exist on the date that the filer signs the report. A conflict, however, may arise six months later if, for example, the filer is faced with participating in a particular matter that has a direct and predictable effect on one of the companies in which the filer owns stock. Once a conflict arises, it is the responsibility of the filer to seek the advice of an ethics counselor to determine the appropriate remedy for the conflict.

Request for Comments: Agency and public comment is again invited specifically on the need for and practical utility of this information collection, the accuracy of OGE's burden estimate, the enhancement of quality, utility and clarity of the information collected, and the minimization of burden (including the use of information technology). Comments received in response to this notice will be summarized for, and may be included with, the OGE request for extension of OMB paperwork approval. The comments will also become a matter of public record.

Approved: January 14, 2014

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**Walter M. Shaub, Jr.,**

Director, Office of Government Ethics.

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